

**FEE TRANSMITTAL****for FY 2004**

Patent fees are subject to annual revision

**Complete if Known**

Application Number	10/027,613
Confirmation Number	4354
Filing Date	December 21, 2001
First Named Inventor	Peter W. Hamilton
Examiner Name	V. S. Chang
Art Unit	1771
Attorney Docket No.	5922R2CC

**TOTAL AMOUNT OF PAYMENT (\$330.00)****METHOD OF PAYMENT**

1. ☒ The Director is hereby authorized to charge indicated fees submitted on this form, credit any over payments, and charge any additional fee(s) during the pendency of this application to:

Deposit Account Number: **16-2480**Deposit Account Name: **The Procter & Gamble Company****FEE CALCULATION****1. BASIC FILING FEE – Large Entity**

Code (\$)	Fee Description	Fee Paid
1001 770	Utility filing fee	<input type="checkbox"/>
1002 340	Design filing fee	<input type="checkbox"/>
1004 770	Reissue filing fee	<input type="checkbox"/>
1005 160	Provisional filing fee	<input type="checkbox"/>

**SUBTOTAL (1) (\$)****2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE – Large Entity**

		Extra	Fee from	Fee
		Claims	Below	Paid
Total Claims	<input type="checkbox"/> - 20** =	<input type="checkbox"/> x	<input type="checkbox"/>	= <input type="checkbox"/>
Independent Claims	<input type="checkbox"/> - 3** =	<input type="checkbox"/> x	<input type="checkbox"/>	= <input type="checkbox"/>
Multiple Dependent			<input type="checkbox"/>	= <input type="checkbox"/>

\*\* or number previously paid, if greater; For Reissues, see below

Code (\$)	Fee Description
1202 18	Claims in excess of 20
1201 86	Independent claims in excess of 3
1203 290	Multiple dependent claim, if not paid
1204 86	**Reissue independent claims over original patent
1205 18	**Reissue claims in excess of 20 & over original patent

**SUBTOTAL (2) (\$)****FEE CALCULATION (continued)****3. ADDITIONAL FEES**

Code (\$)	Fee Description	Fee Paid
1051 130	Surcharge-late filing fee or oath	<input type="checkbox"/>
1052 50	Surcharge-late provisional filing fee or cover sheet	<input type="checkbox"/>
1053 130	Non-English specification	<input type="checkbox"/>
1812 2,520	For filing a request for <i>ex parte</i> reexamination	<input type="checkbox"/>
1804 920*	Requesting publication of SIR prior to Examiner's action	<input type="checkbox"/>
1805 1,840*	Requesting publication of SIR after Examiner's action	<input type="checkbox"/>
1251 110	Extension for reply within 1 <sup>st</sup> month	<input type="checkbox"/>
1252 420	Extension for reply within 2 <sup>nd</sup> month	<input type="checkbox"/>
1253 950	Extension for reply within 3 <sup>rd</sup> month	<input type="checkbox"/>
1254 1,480	Extension for reply within 4 <sup>th</sup> month	<input type="checkbox"/>
1255 2,010	Extension for reply within 5 <sup>th</sup> month	<input type="checkbox"/>
1401 330	Notice of Appeal	<input type="checkbox"/>
1402 330	Filing a brief in support of an appeal	<input checked="" type="checkbox"/>
1403 290	Request for oral hearing	<input type="checkbox"/>
1451 1,510	Petition to institute a public use proceeding	<input type="checkbox"/>
1452 110	Petition to revive - unavoidable	<input type="checkbox"/>
1453 1,330	Petition to revive - unintentional	<input type="checkbox"/>
1501 1,330	Utility issue fee (or reissue)	<input type="checkbox"/>
1502 480	Design issue fee	<input type="checkbox"/>
1460 130	Petitions to the Commissioner	<input type="checkbox"/>
1807 50	Processing fee under 37 C.F.R. 1.17(q)	<input type="checkbox"/>
1806 180	Submission of Information Disclosure Statement	<input type="checkbox"/>
1809 770	Filing a submission after final rejection (37 CFR § 1.129(a))	<input type="checkbox"/>
1810 770	For each additional invention to be examined (37 CFR § 1.129(b))	<input type="checkbox"/>
1801 770	Request for Continued Examination (RCE)	<input type="checkbox"/>
1802 900	Request for expedited examination of a design application	<input type="checkbox"/>
1454 1330	Acceptance of unintentionally delayed claim for priority under 35 U.S.C. 119, 120, 121, or 365 (a) or (c)	<input type="checkbox"/>
	Other fee (specify) _____	<input type="checkbox"/>
	Other fee (specify) _____	<input type="checkbox"/>

\* Reduced by Basic Filing Fee Paid **SUBTOTAL(3) (\$ [330.00])**

SUBMITTED BY			Complete (if applicable)	
Name (Print/Type)	<b>Peter D. Meyer</b>	Registration No.	Telephone	(513) 634-9359
Signature		(Attorney/Agent)	Date	May 18, 2004

This collection of information is required by 37 CFR 1.17. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon individual case. Any comments on the amount of time you are required to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P. O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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Ineke Sweeney

Name

Signature

*Ineke Sweeney*

FFW  
AF/1771\$

Case 5922R2CC

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In the Application of :  
Peter W. Hamilton, et al. : Confirmation No. 4354  
Serial No: 10/027,613 : Group Art Unit 1771  
Filed: December 21, 2001 : Examiner V. S. Chang  
For: IMPROVED STORAGE WRAP MATERIAL

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**APPELLANT'S BRIEF**

Dear Sir:

This is Appellant's Brief in triplicate relating to an appeal from the December 1, 2003, Final Rejection in the above-identified Application. The Notice of Appeal was deposited with a Certificate of Mailing and addressed to Commissioner for Patents, Alexandria, VA 22313-1450 on March 31, 2004, and was noted as received in the U.S. PTO on April 5, 2004.

**I. REAL PARTY IN INTEREST**

The real party in interest for the present Application S.N. 10/027,613 is The Procter & Gamble Company of Cincinnati, OH by virtue of the Assignment recorded on December 9, 1996, at Reel No. 8264, Frame 0463.

**II. RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences known to Appellant's undersigned legal representative, which will directly affect, or be directly affected by, or have a bearing on, the Board's decision in the present appeal.

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### III. STATUS OF CLAIMS

In the Notice of Appeal, Appellant appealed the final rejection of all pending Claims 1-9. The complete copy of the appealed Claims is set forth in the Appendix.

Claims 1-9 stand finally rejected under 35 U.S.C. §103(a) over Wilbur, U.S. Patent No. 2,338,749, in view of the admitted prior art.

### IV. STATUS OF THE AMENDMENTS

There has been no amendment to the claims filed after the final action dated December 1, 2003, in this case.

### V. SUMMARY OF THE INVENTION

The invention on appeal relates to sheet-like materials suitable for use in the containment and protection of various items, as well as the preservation of perishable materials such as food items. Users of materials supplied in a continuous form often encounter difficulty in locating and isolating the current end portion of the rolled web in order to start the dispensing operation. (p. 2, ll. 3-6) Additionally, available materials encounter difficulty due to the failure of the material to adhere to itself and/or the desired target surface sufficiently to form an airtight seal, either from the outside or after a period of handling the container or wrapped item. (p. 2, ll. 20-22) Further, previous materials tended to "cling" to themselves and other surfaces; i.e., exhibit an attraction or affinity for the material rather than an adhesive bond. Such an affinity for a complementary surface is highly dependent upon material characteristics such as chemical composition, electrical conductivity, surface energy, and surface finish. (p. 2, l. 33 – p. 3, l. 2) Additionally, materials comprising thin controllable webs of various compositions available in sheet or rolled form (i.e., aluminum foil and/or coated paper) exhibit no adhesive or cling characteristics. (p. 3, ll. 8-11) These materials are known to rely upon dead-fold characteristics of the materials so that they may be folded or wrapped around an item and retain their folded or wrapped shape. (p. 3, ll. 11-14) It is known that these materials fail to remain sufficiently folded and engaged with itself and/or a semi-enclosed container to adequately enclose and preserve the item. (p. 3, ll. 21-24) Further, such materials fail to form an adequate seal where folded either from the outside or after a period of handling the container or wrapped item. (p. 3, ll. 32-34)

According to independent Claim 1, the improved storage wrap material comprises a sheet of non-porous material comprising one or more layers, and having a first, active side and a second side. (p. 7, ll. 23-26). Further, the sheet comprises a plurality of standoffs at a density of greater than about 200 standoffs per square inch and spaces between the standoffs. (p. 27, ll. 31-33) These standoffs are integral with the first active side and the second side. (p. 10, ll. 16-20) Additionally, an adhesive is continuously disposed upon the first active side. (p. 28, ll. 10-12) Further, the standoffs are selected from the group consisting of deformable standoffs, removable standoffs, repositionable

standoffs, frangible standoffs or mixtures thereof. (p. 10, ll. 14-16) Additionally, the storage wrap material is linerless and consists of no reinforcing or supporting elements such that that storage wrap material is used by itself to wrap or seal materials. (p. 7, ll. 15)

Claim 2 requires the adhesive to be a pressure sensitive adhesive. (p. 28, ll. 3-5)

Claim 3 requires the sheet of material to be clingless. (p. 9, ll. 22-24)

Claim 4 requires the standoff to consist of hollow, collapsible protrusions (p. 25, ll. 12-15)

Claim 5 requires the plurality of protrusions to have an amorphous pattern. (p. 25, ll. 10-12)

Claim 6 requires the plurality or protrusions to have a regular pattern (p. 12, ll. 19-21).

Claim 7 requires the storage wrap material to be activated by a manner of activation selected from the group consisting of compression activation, extension activation, thermal activation, and combinations thereof. (p. 8, ll. 3-4)

Claim 8 requires the storage wrap material to be activated by a compressive force of greater than 0.1 psi. (p. 29, ll. 22-26)

Claim 10 requires the adhesive to partially fill the spaces between the standoffs. (p. 26, ll. 17-20)

## VI. ISSUE

Are Claims 1-9 obvious under 35 U.S.C. §103(a) over Wilbur, U.S. Patent No. 2,338,749 in view of the admitted prior art?

Appellant respectfully asserts that Claims 1-9 are unobvious over *Wilbur* in view of the admitted prior art.

## VII. GROUPING OF CLAIMS

The claims do not stand or fall together. Claim 5 stands or falls separately from Claims 1-4 and 6-9, because Claim 5 has a material limitation not found in the other claims.

## VIII. ARGUMENT

As set forth below, the invention defined in the appealed claims is unobvious over the cited references under 35 U.S.C. §103(a), whereby the rejection under 35 U.S.C. §103(a) should be reversed.

### A. Claims 1-20 Are Unobvious Over the Wilbur Reference.

Claims 1-9 are finally rejected under 35 U.S.C. §103(a) over Wilbur, U.S. Patent No. 2,338,749 (the '749 reference) in view of the admitted prior art. The '749 reference teaches tie-bands, labels, wrappers, and similar articles of flexible paper or other equivalent sheet material, and more especially to tie-bands, labels and the like of that class which is coated in part with an adhesive or cohesive element by means of which it is applied to another thing or object either by direct application of the coated portion to the other thing or object, or by application thereof to another part of the tie-band, label or the like itself. (1:1-10) As disclosed in the '749 reference, tie-bands are

produced from a web sheet material of indeterminate length. (2:53-54) The web is passed through or into a machine which provides embossing, thereby forming pockets or recesses and longitudinal and transverse ribs or elevations. (3:3-6) Thus, the tie-band is provided with a plurality of pockets or recesses, each of which is provided with a coating of a permanently sticky or tacky adhesive. (2:48-50) As shown in Figs. 1-6, the adhesive provided is a plurality of discontinuous pockets wherein an amount of adhesive is placed into a recess.

Alternatively, the '749 reference provides a sheet material, shown in Figs. 7 and 8, that is provided with a multiplicity of pin punctures that provides an outstanding tubular burr that are surrounded by a coating of a permanently sticky or tacky adhesive. (3:47-53) Ostensibly, the outstanding burrs serve as means for normally shielding the adhesive coating against accidental contact with other objects. (4:1-4)

In sum, Figs. 1-6 and the specification of the '749 patent disclose a sheet formed from a web material having a plurality of pockets that provide for a discontinuous deposition of adhesive upon the sheet material. In the alternative, Figs. 7-8 and the specification of the '749 provide a porous substrate having continuous deposition of adhesive thereupon.

The Examiner has stated that, "Figs. 1 and 2 show that a permanently sticky or tacky adhesive 11 is coated in the pockets or recesses of an embossed web of sheet material."<sup>1</sup> (Emphasis in original) Appellant agrees. Further, the Examiner states, "[T]he [Wilbur] invention can be embodied in a label, wrapper, envelope or other article of flexible sheet material."<sup>2</sup> (Emphasis in original) Finally, the Examiner concludes that, "[W]hile the [*sic*] Figs. 7 and 8 shows [*sic*] one of the embodiments of Wilbur's invention, Figs. 1 and 2 clearly shows [*sic*] a non-punctured non-porous embodiment, in which the substrate is not punctured, and structurally reads on [the] instant claimed invention...."<sup>3</sup> and that "Wilbur teaches essentially the same structure as the instant invention."<sup>4</sup> (Emphasis in original)

Unlike the present invention, the '749 reference is not concerned with, and in fact is silent with, respect to providing an improved storage wrap material comprising, *inter alia*, a sheet of non-porous material having an adhesive continuously disposed thereon. The '749 reference is simply concerned with providing a tie-band that has an adhesive disposed upon a web substrate wherein the adhesive is protected from contact with external objects. This is done by providing an adhesive discontinuously disposed upon the web substrate within wells developed thereon (Figs. 1-6) or by providing a permeable substrate having an adhesive disposed continuously thereon (Figs. 7-8). Furthermore, the '749 reference is silent and does not even suggest providing a sheet of non-porous material having an adhesive continuously disposed thereon. Thus, none of the embodiments shown in the *Wilbur* reference "structurally reads on the instantly claimed invention" or "teaches essentially the same structure as the instant invention," as the Examiner asserts. Further, even if the tie-band of *Wilbur* can also be embodied in a label, wrapper, envelope or other article of flexible sheet material

<sup>1</sup> Aug. 4, 2003 Office Action, p. 5, ll. 1-4.

<sup>2</sup> Dec. 1, 2003 Office Action, p. 3, ll. 2-4.

<sup>3</sup> Mar. 2, 2004 Advisory Action, p. 2, ll. 8-11.

<sup>4</sup> Mar. 2, 2004 Advisory Action, p. 2, ll. 15-16.

intended for other uses, *Wilbur* does not provide any suggestion or motivation to provide Appellant's claimed invention. This language within the *Wilbur* reference merely suggests possible uses for the claimed invention.

In any case, the '749 reference simply does not teach or suggest Appellant's claimed invention. Particularly, the '749 reference does not disclose an improved storage wrap material comprising a sheet of non-porous material comprising a plurality of stand-offs and having an adhesive continuously disposed thereupon, as required by Appellant's claims. Accordingly, the rejection over the '749 reference should be withdrawn.

B. Claim 5 Contains a Further Limitation Not Found in the Cited Prior Art.

Claim 5 depends from Claim 4 which depends from Claim 2 and therefore Claim 1 and requires the storage wrap material to comprise a plurality of protrusions provided in an amorphous pattern. The protrusions are the claimed stand-offs.

The prior art does not teach an improved storage wrap material comprising a plurality of protrusions that are in an amorphous pattern. Accordingly, Claim 5 should be allowable.

IX. CONCLUSION

The Examiner has not satisfied the burden of demonstrating that Appellant's claimed invention is obvious over the cited reference. Specifically, nothing in the reference, when taken individually, or in combination with Appellant's Specification, teaches, discloses, or even suggests Appellant's claimed improved storage wrap material.

Thus, for the reasons stated above, the Board is respectfully requested to find Claims 1-9 of the instant Application allowable over the cited prior art.

Respectfully submitted,

By 

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May 18, 2004  
Customer No. 27752

APPENDIX  
Appealed Claims: Serial No. 10/143,209

1. (Previously Presented) An improved storage wrap material comprising:
  - a) a sheet of non-porous material comprising one or more layers, and having a first, active side and a second side, said sheet comprising a plurality of standoffs at a density of greater than about 200 standoffs per square inch and spaces between the standoffs, said standoffs being integral with said first active side and said second side; and
  - b) an adhesive continuously disposed upon said first active side;wherein the standoffs are selected from the group consisting of deformable standoffs, removable standoffs, repositionable standoffs, frangible standoffs, or mixtures thereof; and  
wherein the storage wrap material is linerless and consists of no reinforcing or supporting elements such that the storage wrap material is used by itself to wrap or seal materials.
2. (Original) An improved storage wrap material according to Claim 1 wherein the adhesive is a pressure sensitive adhesive.
3. (Previously Presented) An improved storage wrap material according to Claim 2 wherein the sheet of material is clingless.
4. (Original) An improved storage wrap material according to Claim 2 wherein the standoffs consist of hollow, collapsible protrusions.
5. (Previously Presented) An improved storage wrap material according to Claim 4 wherein the plurality of protrusions are in an amorphous pattern.
6. (Original) An improved storage wrap material according to Claim 4 wherein the plurality of protrusions are in a regular pattern.
7. (Previously Presented) An improved storage wrap material according to Claim 1 wherein the storage wrap material is activated by a manner of activation selected from the group consisting of compression activation, extension activation, thermal activation, and combinations thereof.

8. (Original) An improved storage wrap material according to Claim 7 wherein the storage wrap material is activated by a compressive force of greater than 0.1 psi.
9. (Original) An improved storage wrap material according to Claim 1 wherein the adhesive partially fills the spaces between the standoffs.